

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

FILED

UNITED STATES OF AMERICA,) JUL 27 2022
)
Plaintiff,) U.S. DISTRICT COURT
) INDIANAPOLIS, INDIANA
v.) Cause No. 1:20-cr-0079-JPH-MJD
)
)
WAYNE TURNER,) -01
)
)
Defendant.)

AMENDMENT TO PLEA AGREEMENT

The parties, by and through the undersigned counsel and the Defendant, WAYNE TURNER, hereby inform the Court that paragraph 25 of the Petition to Enter Plea of Guilty and Plea Agreement filed at Docket No. 95 is amended and replaced by the following:

25. Later Legal Challenges: Additionally, the defendant expressly agrees not to contest, or seek to modify, the defendant's conviction or sentence or the manner in which either was determined in any later legal proceeding, including but not limited to, an action brought under 18 U.S.C. § 3582 or 28 U.S.C. § 2255, except as follows:

- a. **Ineffective Assistance of Counsel:** As concerns the Section 2255 waiver, the waiver does not prevent claims, either on direct or collateral review, that the defendant received ineffective assistance of counsel.
- b. **Retroactive Sentencing Guidelines Reductions:** As concerns this Section 3582 waiver, should the United States Sentencing Commission and/or Congress in the future amend the Sentencing Guidelines to lower the guideline range that pertains to the defendant's offense(s) and explicitly make such an amendment retroactive, the Government agrees that it will not argue that this waiver bars the defendant from filing a motion with the

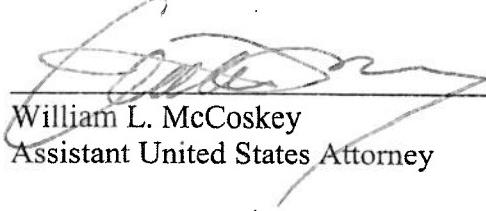
district court pursuant to 18 U.S.C. § 3582(c)(2) based on that retroactive Guidelines amendment. However, if the defendant files such a motion, the Government may oppose the motion on any other grounds. Furthermore, should the defendant seek to appeal an adverse ruling of the district court on such a motion, this waiver bars such an appeal.

- c. **Motions for Compassionate Release:** As concerns the Section 3582 waiver, the defendant reserves the right to file motions seeking a “compassionate release” sentence reduction pursuant to the First Step Act of 2018 and 18 U.S.C. § 3582(c)(1)(A)(i). Any such motion must be based on one or more “extraordinary and compelling reasons” set forth in U.S.S.G. § 1B1.13 and the governing interpretations of that provision and its application notes (or, in the event of amendment of that U.S.S.G. provision or the relevant application notes, the provision(s), if any, with the same effect at the time of the filing of the motion for sentence reduction). The defendant further agrees that under application note 1(D), as it appears in the 2021 Guidelines Manual, the defendant may assert only those reasons set forth in the relevant Bureau of Prisons program statement in effect at the time of the defendant’s motion (currently Program Statement 5050.50). The government further reserves the right to oppose any motion for compassionate release on any other grounds.

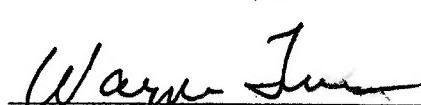
Respectfully submitted,

ZACHARY A. MYERS
United States Attorney

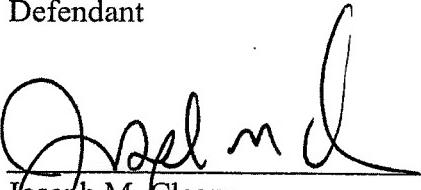
7/27/22
DATE


William L. McCoskey
Assistant United States Attorney

7/27/22
DATE


Wayne Turner
Defendant

7/27/22
DATE


Joseph M. Cleary
Attorney for the Defendant